
THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 829

Session of
1983

INTRODUCED BY LETTERMAN, SPENCER, L. E. SMITH, AFFLERBACH,
DeVERTER AND E. Z. TAYLOR, APRIL 19, 1983

REFERRED TO COMMITTEE ON PROFESSIONAL LICENSURE, APRIL 19, 1983

AN ACT

1 Providing for and regulating the registration and licensing of
2 motor vehicle and mobile home manufacturers, dealers and
3 salesmen.

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29 The General Assembly of the Commonwealth of Pennsylvania
30 hereby enacts as follows:

1 Section 1. Short title.

2 This act shall be known and may be cited as the Motor Vehicle
3 Manufacturer's, Dealer's and Salesman's License Act.

4 Section 2. Legislative findings and purposes.

5 The General Assembly of this Commonwealth finds and declares
6 that the distribution and sale of new and used motor vehicles in
7 the Commonwealth vitally affects the general economy of the
8 Commonwealth and the public interest and the public welfare, and
9 that in order to promote the public interest and the public
10 welfare, and in the exercise of its police power, it is
11 necessary to:

12 (1) License salesmen of new and used motor vehicles,
13 motor vehicle manufacturers, distributors, wholesalers,
14 dealers, salesmen and their representatives doing business in
15 Pennsylvania, in order to prevent frauds, unfairness,
16 inequality, discrimination, impositions and other abuses upon
17 its citizens.

18 (2) Foster and keep alive vigorous and healthy
19 competition for the benefit of the public by prohibiting
20 unfair practices by which fair and honest competition is
21 destroyed or prevented.

22 (3) Protect the public against the creation or
23 perpetuation of monopolies and practices detrimental to the
24 public welfare.

25 (4) Prevent false and misleading advertising.

26 (5) Prevent unfair practices by motor vehicle dealers,
27 manufacturers and distributing organizations.

28 (6) Promote the public safety.

29 (7) Prevent deterioration of motor vehicle dealers',
30 manufacturers' and distributing organizations' facilities for

1 the servicing of motor vehicles and keeping motor vehicles
2 safe and properly functioning on the highways in this
3 Commonwealth.

4 (8) Prevent bankrupting of motor vehicle dealers who
5 might otherwise be caused to fail because of such unfair
6 practices in competition, thereby resulting in unemployment,
7 loss of tax and revenue to this Commonwealth and an
8 inevitable train of undesirable consequences, including
9 economic depression.

10 Section 3. Definitions.

11 The following words and phrases when used in this act shall
12 have the meanings given to them in this section unless the
13 context clearly indicates otherwise:

14 "Agreement." A contract or franchise or any other instrument
15 which describes the contractual relationship between a
16 manufacturer, distributor, importer or dealer and one or more
17 other such persons.

18 "Board." The State Board of Motor Vehicle Manufacturers,
19 Dealers and Salesmen, which shall consist of 14 persons to be
20 appointed by the Governor, with the advice and consent of the
21 Senate, within 90 days, which shall aid and assist in the
22 administration of this act. The members of the board shall be
23 residents of Pennsylvania. The Commissioner of Professional and
24 Occupational Affairs and the Secretary of the Department of
25 Transportation or his designee shall be ex officio members of
26 said board. Three members of the board shall be new car dealers,
27 as defined herein, who have been actively engaged as such for a
28 period of at least five years immediately preceding their
29 appointment. Three members of the board shall be used car
30 dealers, as defined herein, who have been actively engaged as

1 such for a period of at least five years immediately preceding
2 their appointment. One member shall be a mobile home dealer, as
3 defined herein, who has been actively engaged as such for a
4 period of at least five years preceding his appointment. The
5 mobile home dealer member currently a member of the board which
6 was established by the act that this act repeals shall serve
7 until the expiration of his current term or until his successor
8 shall be appointed. One member shall be a salesman, as defined
9 herein, who for a period of at least five years immediately
10 preceding his appointment has been actively engaged in the sale
11 of new and used vehicles and who is not at the time of his
12 appointment a dealer or an officer of a corporation or a member
13 of a partnership engaged in the business of a dealer. One member
14 shall be a recreational vehicle dealer, as defined herein, who
15 has been actively engaged as such for a period of at least five
16 years preceding his appointment. Three members shall be members
17 of the general public having no connection with the vehicle
18 business. The three public members of the board shall be
19 appointed for terms of three years. One member of the board
20 shall be elected chairman and one shall be elected secretary.
21 All members shall serve for terms of three years, and shall hold
22 office until their successors are appointed and qualified. In
23 the event that any member shall die, resign or be removed from
24 office during his term of office, his successor shall be
25 appointed and hold office for the unexpired term. The members,
26 excepting the Commissioner of Professional and Occupational
27 Affairs and Secretary of the Department of Transportation, shall
28 receive \$30 per diem for each day actually engaged in attendance
29 at meetings of the board. The members, excepting the
30 Commissioner of Professional and Occupational Affairs and

1 Secretary of the Department of Transportation, shall also
2 receive the amount of actual traveling, hotel and other
3 necessary expenses incurred in the performance of their duties
4 under this act.

5 "Branch lot." An office and lot maintained in addition to
6 the main office and lot of a licensed vehicle dealer. The branch
7 lot must meet the same facility requirements as defined herein
8 and by regulations as a main lot, unless used solely for the
9 storage of motor vehicles.

10 "Broker." Any person who, for a commission, compensation or
11 other valuable consideration, and without being licensed in
12 accordance with this act, engages or participates in the
13 wholesale or retail sale in one calendar year of five or more
14 used vehicles or any new vehicle as the agent for the buyer or
15 seller. For the purposes of this definition, the broker does not
16 necessarily have to have custody or control of the subject
17 vehicle but must have the authority of the buyer or seller to
18 negotiate or conduct a transaction on behalf of the buyer or
19 seller.

20 "Bushing." The practice of increasing the selling price of a
21 car above that originally quoted the purchaser or decreasing the
22 allowance for trade-in of a used car after the purchaser has
23 signed a purchase order or contract which is subject to
24 subsequent acceptance by the seller: Provided, however, That if
25 a used car is being used as the down payment and it is not to be
26 delivered to the dealer until the delivery of the new car, the
27 used car may be reappraised at that time and such reappraisal
28 value may determine the allowance made for such used car.

29 "Curb-stoner or unlicensed salesman." Any person who, for a
30 commission, compensation or other valuable consideration, and

1 without being licensed in accordance with this act or
2 regulations as a salesman, engages in the wholesale or retail
3 sale, exchange or purchase in one calendar year of five or more
4 used vehicles or any new vehicle.

5 "Dealer." All of the following:

6 (1) New car dealer.--A person duly licensed in
7 accordance with this act and regulations actively engaged in
8 and devoting a substantial portion of his time in the
9 business of buying, selling or exchanging new and used motor
10 vehicles, trailers or semitrailers on commission or
11 otherwise, who maintains a salesroom or garage devoted
12 principally to the motor vehicle business and an established
13 place of business as defined herein, and who holds a contract
14 in writing with a manufacturer, importer or distributor,
15 giving such person selling rights for new motor vehicles,
16 trailers or semitrailers or who is an importer or distributor
17 of new motor vehicles, trailers or semitrailers who holds a
18 contract in writing with a manufacturer of motor vehicles,
19 trailers and semitrailers.

20 (2) Used car dealer.--A person duly licensed in
21 accordance with this act and regulations actively and
22 principally engaged in and devoting a substantial portion of
23 his time to the business of buying, selling or exchanging
24 used motor vehicles, tractors, trailers or semitrailers on
25 commission or otherwise who maintains an established place of
26 business as defined herein, which established place of
27 business shall include at least a two bay garage equipped to
28 perform the usual and normal repair and servicing of motor
29 vehicles (or said dealer shall by written contract have
30 available at all times to him such repair and servicing

1 facilities) and upon which or adjacent thereto is a building
2 or portion of a building, owned or rented by such person,
3 where his books and records are kept and which is devoted
4 principally to the motor vehicle business, in which the
5 repair of vehicles is subordinate or incidental to the
6 business of buying, selling or exchanging vehicles.

7 (3) New mobile home dealer.--A person duly licensed in
8 accordance with this act and regulations actively and
9 principally engaged in and devoting a substantial portion of
10 his time to the business of buying, selling or exchanging
11 mobile homes, house trailers or office trailers on commission
12 or otherwise, who maintains a minimum useable display area of
13 5,000 square feet devoted principally to the mobile home,
14 house trailer or office trailer business, who maintains an
15 established place of business as defined herein, and who
16 holds a contract in writing with a manufacturer giving such
17 person selling rights for new mobile homes, house trailers or
18 office trailers.

19 (4) Used mobile home dealer.--A person duly licensed in
20 accordance with this act and regulations actively and
21 principally engaged in and devoting a substantial portion of
22 his time to the business of buying, selling or exchanging
23 used mobile homes, house trailers or office trailers on
24 commission or otherwise, who maintains a minimum useable
25 display area of 5,000 square feet, actually occupied by such
26 person, and upon which or adjacent thereto is a building, or
27 a portion of a building, owned or rented by such person,
28 where his books and records are kept and which is devoted
29 principally to the mobile home, house trailer or office
30 trailer business, in which the repair of such vehicles is

1 subordinate or incidental to the business of buying, selling
2 or exchanging such vehicles and who maintains an established
3 place of business, as defined herein.

4 (5) New recreational vehicle dealer.--A person duly
5 licensed in accordance with this act and regulations actively
6 and principally engaged in and devoting a substantial portion
7 of his time to the business of buying, selling or exchanging
8 new and used recreational vehicles on commission or
9 otherwise; and who maintains an established place of business
10 as defined herein and a minimum useable display area of 5,000
11 square feet devoted principally to the recreational vehicle
12 business; recreational vehicles shall include motor homes,
13 house trailers and slide-in campers.

14 (6) Used recreational vehicle dealer.--A person duly
15 licensed in accordance with this act and regulations actively
16 and principally engaged in and devoting a substantial portion
17 of his time to the business of buying, selling or exchanging
18 used recreational vehicles on commission or otherwise; and
19 who maintains an established place of business as defined
20 herein and a minimum useable display area of 5,000 square
21 feet devoted principally to the recreational vehicle
22 business; recreational vehicles shall include motor homes,
23 house trailers and slide-in campers.

24 "Distributor." A person, resident or nonresident, who, in
25 whole or part, sells or distributes vehicles to dealers or who
26 maintains distributor representatives.

27 "Distributor branch." A branch office similarly maintained
28 by a distributor or wholesaler for like purposes.

29 "Distributor representative." A representative similarly
30 employed by a distributor, distributor branch or wholesaler.

1 "Established place of business." A permanent, enclosed
2 building as more specifically defined by regulation which is
3 accessible and open to the public at all reasonable times and at
4 which the business of a new or used vehicle dealer, including
5 the display and repair of vehicles, may be lawfully conducted in
6 accordance with the terms of all applicable building codes,
7 zoning and other land-use regulatory ordinances.

8 "Factory branch." A branch office maintained by a
9 manufacturer for the sale of vehicles to distributors or dealers
10 or for directing or supervising, in whole or part, its
11 representatives.

12 "Factory representative." A representative employed by a
13 manufacturer or by a factory branch for the purpose of making or
14 promoting the sale of its vehicles or for supervising or
15 contacting its dealers or prospective dealers.

16 "Fleet owner." Any person who owns a group of 15 or more
17 vehicles.

18 "Franchise." The written agreement or contract between any
19 new vehicle manufacturer and any new vehicle dealer which
20 purports to fix the legal rights and liabilities of the parties
21 to such agreement or contract, and pursuant to which the dealer
22 purchases and resells the franchise product or leases or rents
23 the dealership premises.

24 "Good faith." Honesty in fact and the observation of
25 reasonable commercial standards of fair dealing in the trade as
26 defined and interpreted in 13 Pa.C.S. § 2103 (relating to
27 definitions and index of definitions).

28 "Manufacturer." Any person, resident or nonresident, who
29 manufactures or assembles vehicles or who manufactures or
30 installs on previously assembled chassis special bodies or

1 equipment which when installed form an integral part of a
2 vehicle and which constitute a major manufacturing alteration.

3 "Off-premises sale." A sale for a fixed and limited period
4 of time held in the normal trading area of the participating
5 dealer, which is conducted for the purpose of exhibiting and
6 selling vehicles at a location not normally used as a
7 dealership.

8 "Person." A natural person, firm, copartnership, cooperation
9 or association.

10 "Recreational vehicle." A vehicular unit primarily designed
11 as temporary living quarters for recreational, camping or travel
12 use, which either has its own motive power or is mounted on or
13 drawn by another vehicle but shall not include a camping
14 trailer. The basic entities are: travel trailer, house trailer,
15 slide-on camper and motor home.

16 "Relevant market area." The area within a radius of 20 miles
17 around an existing dealer or the area of responsibility defined
18 in the franchise, whichever is greater; except that, where a
19 manufacturer is seeking to establish an additional new motor
20 vehicle dealer, the relevant market area shall in all instances
21 be the area within a radius of ten miles around the proposed
22 site. Relevant market area shall not apply to mobile home or
23 recreational vehicle dealer or manufacturer agreements.

24 "Retail sale" or "sale at retail." The act or attempted act
25 of selling, bartering, exchanging or otherwise disposing of a
26 vehicle to an ultimate purchaser.

27 "Salesman." Any person who, for a commission, compensation
28 or other valuable consideration, is employed as a salesman by a
29 dealer to sell vehicles at retail. Any salesman licensed
30 hereunder shall be licensed to sell only for one dealer at a

1 time and his license shall indicate the name of that dealer.
2 Included in the definition of salesman shall be the principal,
3 an officer or a partner of a dealer if he personally is actively
4 engaged in the retail sale of vehicles.

5 "Unlicensed salesman or curb-stoner." Any person who, for a
6 commission, compensation or other valuable consideration, and
7 without being licensed in accordance with this act or
8 regulations as a salesman, engages in the wholesale or retail
9 sale, exchange or purchase in one calendar year of five or more
10 used vehicles or any new vehicle.

11 "Vehicle." Every device which is or may be moved or drawn
12 upon a highway, except devices moved by human or animal power,
13 those used exclusively upon rails or tracks or motorized
14 pedalcycles.

15 "Wholesaler." A person, resident or nonresident, who is in
16 the business of buying, selling or exchanging vehicles to
17 dealers.

18 Section 4. License required to engage in the business of motor
19 vehicle salesman, manufacturer or dealer.

20 (a) License required.--In order to promote the public
21 interest and public welfare, it shall be unlawful for any person
22 except as hereinafter provided, to engage in the business of
23 salesman, broker, dealer, manufacturer, factory branch,
24 distributor, distributor branch, factory or distributor
25 representative or wholesaler within this Commonwealth unless he
26 has secured a license as required under the provisions of this
27 act.

28 (b) Mobile home parks.--It shall be unlawful for any person,
29 for a commission, compensation or other consideration, to sell
30 or act as salesman, broker or sales agent in connection with the

1 sale of one or more mobile homes located in a mobile home park,
2 as provided for in section 11 of the act of November 24, 1976
3 (P.L.1176, No.261), known as the Mobile Home Park Rights Act,
4 unless such person shall be licensed under this act.

5 (c) Salesmen to be employed.--It shall be unlawful for any
6 salesman to engage in any activity related to the buying,
7 selling or exchanging of a vehicle, unless the salesman is
8 presently employed by a currently licensed vehicle dealer, and
9 the sale is conducted pursuant to and as part of the normal
10 business activities of that dealer.

11 Section 5. Powers and duties of the State Board of Motor
12 Vehicle Manufacturers, Dealers and Salesmen.

13 The board shall have power and its duty shall be:

14 (1) To provide for and regulate the licensing of
15 salesmen, dealers, manufacturers, factory branches,
16 distributors, distributor branches, factory of distributor
17 representatives and wholesalers as defined in this act.

18 (2) To review and pass upon the qualifications of
19 applicants for licensure, and to issue except as otherwise
20 provided herein, a license to engage in the said businesses
21 to any applicant who is approved by the board and who meets
22 the requirements of this act.

23 (3) As hereinafter provided, to investigate on its own
24 initiative, on a complaint of the Department of
25 Transportation or upon the verified complaint in writing of
26 any person, any allegations of the wrongful act or acts of
27 any licensee or person required to be licensed hereunder.

28 (4) To administer and enforce the law and rules and
29 regulations adopted under this act and to impose appropriate
30 administrative discipline as hereinafter provided upon

1 licensees found to be in violation of this act.

2 (5) To bring criminal prosecutions for unauthorized,
3 unlicensed and unlawful practice.

4 (6) As hereinafter provided, to require each licensee to
5 register biennially with the board.

6 (7) To keep a roster showing the names and addresses of
7 all licensees licensed under this act, the same of which is
8 confidential information as hereinafter provided.

9 (8) To keep minutes and records of all its transactions
10 and proceedings especially with relation to the issuance,
11 denial, registration, suspension and revocation of licenses.
12 In all actions or proceedings in any court, a transcript of
13 any board record or any part thereof, which is certified to
14 be a true copy by the board, shall be entitled to admission
15 in evidence.

16 (9) To adopt, promulgate and enforce all administrative
17 rules and regulations not inconsistent with this act as are
18 deemed necessary and proper by the board to carry into effect
19 the intent of the act expressed; and more specifically to
20 enact those regulations deemed necessary by the board in at
21 least the following areas:

22 (i) The application and renewal process.

23 (ii) Off-premises sales and exhibitions.

24 (iii) The operation of branch lots.

25 (iv) Facility requirements for all dealers.

26 (v) Dealer name, location or ownership changes.

27 (vi) The operation of out-of-state dealers who come
28 into the Commonwealth to engage in the sale or exchange
29 of any vehicle.

30 (vii) Additional grounds for revocation and

1 suspension.

2 (10) To consider complaints submitted to it by the
3 Department of Transportation relating to any violation of
4 Title 75 of the Pennsylvania Consolidated Statutes (relating
5 to vehicles) or any regulations promulgated thereunder
6 insofar as such violations may constitute a wrongful act of a
7 licensee or person required to be licensed under this act.

8 (11) To adopt such forms as it may deem necessary.

9 Section 6. Certain information of board confidential.

10 (a) Roster to be confidential.--The board's roster showing
11 the names and addresses of all licensees licensed under this act
12 is confidential information and shall not be disclosed, except
13 for official purposes, and any person unlawfully divulging such
14 information shall be guilty of a misdemeanor and upon conviction
15 thereof shall be sentenced to pay a fine not in excess of \$1,000
16 and costs of prosecution.

17 (b) Information received to be confidential.--Information
18 received by the board through inspections and investigations
19 shall be confidential and shall not be disclosed except in a
20 proceeding involving the question of licensure.

21 Section 7. License to be displayed.

22 Each person to whom a license is issued shall keep such
23 license conspicuously displayed in his principal office, place
24 of business or place of employment and shall, whenever required,
25 exhibit such license to any member or authorized representative
26 of the board.

27 Section 8. Biennial renewal.

28 Each license holder under this act shall be required to renew
29 his license biennially; as a condition precedent to such
30 biennial renewal the license holder must pay a biennial renewal

1 fee as provided herein and in the case of a salesman or
2 manufacturer's representative be presently employed with a
3 dealer or manufacturer which has a current license; as a further
4 condition of renewal, the license holder must comply with all
5 requirements as set forth through regulation by the board.

6 Section 9. Enforcement duties and powers.

7 The enforcement of the laws and rules and regulations
8 governing practice under this act is primarily vested in the
9 board with the following additional powers and duties:

10 (1) To employ investigators and clerical assistants or
11 any other necessary personnel.

12 (2) To inspect all license holders.

13 (3) To conduct investigations of alleged violations.

14 (4) To review and inspect all business records,
15 documents and files relating to practice under this act.

16 (5) To issue subpoenas duces tecum in connection with
17 any matter under investigation within the jurisdiction of the
18 board.

19 (6) To subpoena witnesses.

20 (7) To take depositions of witnesses in the manner
21 provided for in civil actions in courts of record.

22 (8) To bring criminal prosecutions for unauthorized,
23 unlicensed and unlawful practice in accordance with the terms
24 and provisions of the act of October 15, 1980 (P.L.950,
25 No.164), known as the Commonwealth Attorneys Act.

26 Any hearing on a protest by a dealer of any action by a
27 manufacturer alleged to be in violation of a provision of this
28 act, must be conducted and the final determination made within
29 120 days after the protest is filed. Unless waived by the
30 parties, failure to do so will be deemed the equivalent of a

1 determination that the manufacturer acted with good cause and in
2 the case of a protest of a proposed establishment or relocation
3 of a dealer under section 10 of this act, that good cause does
4 not exist for refusing to permit the proposed additional or
5 relocated new motor vehicle dealer, unless such delay is caused
6 by acts of the manufacturer or the relocating or additional
7 dealer. Any parties to such a hearing shall have a right of
8 review of the decision in a court of competent jurisdiction
9 pursuant to 2 Pa.C.S. § 701 (relating to scope of subchapter).

10 Section 10. Limitations on establishing or relocating dealers.

11 (a) Additional or relocation of new motor vehicle dealers.--
12 In the event that a manufacturer seeks to enter into a franchise
13 establishing an additional new motor vehicle dealer or
14 relocating an existing new motor vehicle dealer within or into a
15 relevant market area where the same line-make is then
16 represented, the manufacturer shall in writing first notify the
17 board and each new motor vehicle dealer in such line-make in the
18 relevant market area of the intention to establish an additional
19 dealer or to relocate an existing dealer within or into that
20 market area. Within 20 days after the end of any appeal
21 procedure provided by the manufacturer, any such new motor
22 vehicle dealer may file with the board a protest to the
23 establishing or relocating of the new motor vehicle dealer. When
24 such a protest is filed, the board shall inform the manufacturer
25 that a timely protest has been filed, and that the manufacturer
26 shall not establish or relocate the proposed new motor vehicle
27 dealer until the board has held a hearing, nor thereafter, if
28 the board has determined that there is good cause for not
29 permitting the addition or relocation of such new motor vehicle
30 dealer.

(b) Nonapplicability of section.--This section does not apply:

(1) To the relocation of an existing dealer within that dealer's relevant market area, provided that the relocation not be at a site within five miles of a licensed new motor vehicle dealer for the same line-make of motor vehicles.

(2) If the proposed new motor vehicle dealer is to be established at or within two miles of a location at which a former licensed new motor vehicle dealer for the same line-make of new motor vehicle had ceased operating within the previous two years. For purposes of this section, a former motor vehicle dealer shall have ceased operations on the date on which the franchise or agreement shall have been finally terminated.

(3) To the relocation of an existing dealer to a site that is further away from the nearest dealer of the same line-make.

(4) To mobile home or recreational vehicle dealers.

(c) Board to consider existing circumstances.--In determining whether good cause has been established for not entering into or relocating an additional new motor vehicle dealer for the same line-make, the board shall take into consideration the existing circumstances, including, but not limited to:

(1) Permanency of the investment of both the existing and proposed new motor vehicle dealers.

(2) Growth or decline in population and new car registrations in the relevant market area.

(3) Effect on the consuming public in the relevant market area.

1 (4) Whether it is injurious or beneficial to the public
2 welfare for an additional new motor vehicle dealer to be
3 established.

4 (5) Whether the new motor vehicle dealers of the same
5 line-make in that relevant market area are providing adequate
6 competition and convenient customer care for the motor
7 vehicles of the line-make in the market area which shall
8 include the adequacy of motor vehicle sales and service
9 facilities, equipment, supply of motor vehicle parts and
10 qualified service personnel.

11 (6) Whether the establishment of an additional new motor
12 vehicle dealer would increase competition and whether such
13 increased competition would be in the public interest.

14 (7) The effect the denial of relocation will have on a
15 relocating dealer.

16 Section 11. Warranty and predelivery obligations.

17 (a) Manufacturers to notify dealers of their obligations.--
18 Each new motor vehicle manufacturer shall specify in writing to
19 each of its new motor vehicle dealers licensed in this
20 Commonwealth the dealer's obligations for predelivery
21 preparation and warranty service on its products, shall
22 compensate the new motor vehicle dealer for such service
23 required of the dealer by the manufacturer, and shall provide
24 the dealer the schedule of compensation to be paid the dealer
25 for parts, work and service in connection therewith, and the
26 time allowance for the performance of such work and service.

27 (b) Schedule of compensation to include reasonable
28 compensation.--In no event shall such schedule of compensation
29 fail to include reasonable compensation for diagnostic work, as
30 well as repair service and labor. Time allowances for the

1 diagnosis and performance of warranty work and service shall be
2 reasonable and adequate for the work to be performed. In the
3 determination of what constitutes reasonable compensation under
4 this section, the principal factors to be given consideration
5 shall be the prevailing wage rates being paid by the dealers in
6 the community in which the dealer is doing business, and in no
7 event shall the hourly labor rate paid to a dealer for warranty
8 services be less than the rate charged by such dealer for like
9 service to nonwarranty customers for nonwarranty service and
10 repairs provided such rate is reasonable.

11 (c) Copy of obligation to be filed with board.--A copy of
12 the delivery and preparation obligations of its dealers shall be
13 filed with the board by every motor vehicle manufacturer and
14 shall constitute the dealer's only responsibility for product
15 liability as between the dealer and the manufacturer.

16 (d) Indemnification required.--Notwithstanding the terms of
17 any franchise agreement, it shall be a violation of this law for
18 any new motor vehicle manufacturer to fail to indemnify and hold
19 harmless its franchised dealers against any judgment for damages
20 or settlement approved in writing by the manufacturer,
21 including, but not limited to, court costs and reasonable
22 attorneys' fees of the new motor vehicle dealer, arising out of
23 complaints, claims or lawsuits including, but not limited to,
24 strict liability, negligence, misrepresentation, warranty
25 (express or implied), or rescission of the sale as is defined in
26 13 Pa.C.S. § 2608 (relating to revocation of acceptance in whole
27 or in part) to the extent that the judgment or settlement
28 relates solely to the alleged defective or negligent
29 manufacture, assembly or design of new motor vehicles, parts or
30 accessories or other functions by the manufacturer, beyond the

1 control of the dealer.

2 Section 12. Termination, cancellation or nonrenewal.

3 (a) Grounds for cancellation, etc. of franchise.--

4 Notwithstanding the terms, provisions or conditions of any
5 franchise or notwithstanding the terms or provisions of any
6 waiver, no manufacturer shall cancel, terminate or fail to renew
7 any franchise with a licensed new motor vehicle dealer unless
8 the manufacturer has:

9 (1) satisfied the notice requirement of subsection (d);

10 and

11 (2) good cause for cancellation, termination or
12 nonrenewal.

13 (b) When good cause shall exist.--Notwithstanding the terms,
14 provisions or conditions of any franchise or the terms or
15 provisions of any waiver, good cause shall exist for the
16 purposes of a termination, cancellation or nonrenewal when:

17 (1) There is a failure by the new motor vehicle dealer
18 to comply with a provision of the franchise which provision
19 is both reasonable and of material significance to the
20 franchise relationship, provided that the dealer has been
21 notified in writing of the failure within 180 days after the
22 manufacturer first acquired knowledge of such failure or
23 after the new motor vehicle dealer was given an opportunity
24 of not less than 180 days to correct such failure.

25 (2) If the failure by the new motor vehicle dealer,
26 defined in paragraph (1) relates to the performance of the
27 new motor vehicle dealer in sales or service, then good cause
28 shall be defined as the failure of the new motor vehicle
29 dealer to comply with reasonable performance criteria
30 established by the manufacturer if the new motor vehicle

1 dealer was apprised by the manufacturer in writing of such
2 failure and:

3 (i) said notification stated that notice was
4 provided of failure of performance pursuant to this
5 section;

6 (ii) the new motor vehicle dealer was afforded a
7 reasonable opportunity, for a period of not less than six
8 months, to comply with such criteria.

9 (c) Burden of proof.--The manufacturer shall have the
10 burden of proof under this section.

11 (d) Notification of termination, cancellation and
12 nonrenewal.--

13 (1) Notwithstanding the terms, provisions or conditions
14 of any franchise prior to the termination, cancellation or
15 nonrenewal of any franchise, the manufacturer shall furnish
16 notification of such termination, cancellation or nonrenewal
17 to the new motor vehicle dealer as follows:

18 (i) in the manner described in paragraph (2); and

19 (ii) not less than 90 days prior to the effective
20 date of such termination, cancellation or renewal; or

21 (iii) not less than 15 days prior to the effective
22 date of such termination, cancellation or nonrenewal with
23 respect to any of the following:

24 (A) insolvency of the new motor vehicle dealer
25 or filing of any petition by or against the new motor
26 vehicle dealer under any bankruptcy or receivership
27 law;

28 (B) failure of the new motor vehicle dealer to
29 conduct its customary sales and service operations
30 during its customary business hours for seven

1 consecutive business days, except for acts of God or
2 circumstances beyond the direct control of the new
3 motor vehicle dealer;

4 (C) conviction of the new motor vehicle dealer
5 or any owner or operator thereof of any crime which
6 is punishable by imprisonment;

7 (D) revocation or suspension for 14 days or more
8 of any license which the new motor vehicle dealer is
9 required to have to operate a dealership;

10 (iv) not less than 180 days prior to the effective
11 date of such termination or cancellation where the
12 manufacturer or distributor is discontinuing the sale of
13 the product line.

14 (2) Notification under this section shall be in writing,
15 shall be by certified mail or personally delivered to the new
16 motor vehicle dealer, and shall contain:

17 (i) a statement of intention to terminate, cancel or
18 not to renew the franchise; and

19 (ii) a statement of the reasons for the termination,
20 cancellation or nonrenewal.

21 (e) Appeal to board.--At any time before the effective date
22 of such termination, cancellation or failure to renew, the
23 dealer may appeal to the board for a hearing on the merits, and
24 following due notice to all parties concerned, such hearing
25 shall be promptly held as required pursuant to section 9. No
26 such termination, cancellation or failure to renew shall become
27 effective until final determination of the issue by the board.

28 Section 13. Unlawful acts by manufacturers, factory branches,
29 distributors, field representatives, officers,
30 agents or any representatives whatsoever of such

1 manufacturers, factory branches or distributors.

2 (a) Unlawful acts by manufacturers.--It shall be a violation
3 of this act, for any manufacturer, factory branch, distributor,
4 field representative, officer, agent or any representative
5 whatsoever of such manufacturer, factory branch or distributor,
6 licensed under this act to require, attempt to require, coerce
7 or attempt to coerce any new motor vehicle dealer in this
8 Commonwealth:

9 (1) To order or accept delivery of any new motor
10 vehicle, part or accessory thereof, equipment or any other
11 commodity not required by law which shall not have been
12 voluntarily ordered by the new motor vehicle dealer; except
13 that this paragraph is not intended to modify or supersede
14 any terms or provisions of the franchise requiring new motor
15 vehicle dealers to market a representative line of those
16 motor vehicles which the manufacturer or distributor is
17 publicly advertising.

18 (2) To order or accept delivery of any new motor vehicle
19 with special features, accessories or equipment not included
20 in the list price of such motor vehicles as publicly
21 advertised by the manufacturer or distributor.

22 (3) To participate monetarily in an advertising campaign
23 or contest or to purchase any promotional materials, training
24 materials, showroom or other display decorations or materials
25 at the expense of the new motor vehicle dealer.

26 (4) To enter into any agreement with the manufacturer or
27 to do any other act prejudicial to the new motor vehicle
28 dealer by threatening to terminate or cancel a franchise or
29 any contractual agreement existing between the dealer and the
30 manufacturer; except that this paragraph is not intended to

1 preclude the manufacturer or distributor from insisting on
2 compliance with the reasonable terms or provisions of the
3 franchise or other contractual agreement and notice in good
4 faith to any new motor vehicle dealer of the new motor
5 vehicle dealer's violation of such terms or provisions shall
6 not constitute a violation of the act.

7 (5) To change the capital structure of the new motor
8 vehicle dealer or the means by or through which the new motor
9 vehicle dealer finances the operation of the dealership
10 provided that the new motor vehicle dealer at all times meets
11 any reasonable capital standards determined by the
12 manufacturer in accordance with uniformly applied criteria,
13 and also provided that no change in the capital structure
14 shall cause a change in the principal management or have the
15 effect of a sale of the franchise without the consent of the
16 manufacturer or distributor, said consent shall not be
17 unreasonably withheld.

18 (6) To refrain from participation in the management of,
19 investment in or the acquisition of any other line of new
20 motor vehicle or related products. This paragraph does not
21 apply unless the new motor vehicle dealer maintains a
22 reasonable line of credit for each make or line of new motor
23 vehicle, the new motor vehicle dealer remains in compliance
24 with the franchise agreement and any reasonable facilities
25 requirements of the manufacturer, and no change is made in
26 the principal management of the new motor vehicle dealer.

27 (7) To prospectively assent to a release, assignment,
28 novation, waiver or estoppel which would relieve any person
29 from liability to be imposed by this act or to require any
30 controversy between a new motor vehicle dealer and a

1 manufacturer, distributor or representative to be referred to
2 any person other than the duly constituted courts of the
3 Commonwealth or the United States of America or to the board,
4 if such referral would be binding upon the new motor vehicle
5 dealer.

6 (8) To either establish or maintain exclusive
7 facilities, personnel or display space.

8 (9) To expand, construct or significantly modify
9 facilities without assurances that the franchisor will
10 provide a reasonable supply of new motor vehicles within a
11 reasonable time so as to justify such an expansion in light
12 of the market and economic conditions.

13 (f) Additional unlawful acts of manufacturers.--It shall be
14 a violation of this act for any manufacturer, factory branch or
15 distributor licensed under this act:

16 (1) To delay, refuse or fail to deliver new motor
17 vehicles or new motor vehicle parts or accessories in a
18 reasonable time and in reasonable quantity relative to the
19 new motor vehicle dealer's facilities and sales potential in
20 the new motor vehicle dealer's relevant market area, after
21 acceptance of an order from a new motor vehicle dealer having
22 a franchise for the retail sale of any new motor vehicle sold
23 or distributed by the manufacturer or distributor, any new
24 motor vehicle, parts or accessories to new vehicles as are
25 covered by such franchise, if such vehicle, parts,
26 accessories are publicly advertised as being available for
27 immediate delivery. This paragraph is not violated, however,
28 if such failure is caused by acts or causes beyond the
29 control of the manufacturer.

30 (2) To unfairly compete with a new motor vehicle dealer

1 in the same line-make operating under an agreement or
2 franchise from the aforementioned manufacturer in the
3 relevant market area. A manufacturer shall not, however, be
4 deemed to be competing when operating a dealership either
5 temporarily for a reasonable period, or in a bona fide retail
6 operation which is for sale to any qualified independent
7 person at a fair and reasonable price, or in a bona fide
8 relationship in which an independent person has made a
9 significant investment subject to loss in the dealership and
10 can reasonably expect to acquire full ownership of such
11 dealership on reasonable terms and conditions.

12 (3) To unfairly discriminate among its new motor vehicle
13 dealers with respect to warranty reimbursement.

14 (4) To unreasonably withhold consent to the sale,
15 transfer or exchange of the franchise to a qualified buyer
16 capable of being licensed as a new motor vehicle dealer in
17 this Commonwealth.

18 (5) To fail to respond in writing to a request for
19 consent as specified in paragraph (4) within 60 days of
20 receipt of a written request on the forms, if any, generally
21 utilized by the manufacturer or distributor for such purposes
22 and containing the information required therein. Such failure
23 to respond shall be deemed to be refusal to consent to the
24 request.

25 (6) To prevent or attempt to prevent by contract or
26 otherwise, any new motor vehicle dealer from changing the
27 executive management control of the new motor vehicle dealer
28 unless the manufacturer, having the burden of proof, can show
29 that such change of executive management will result in
30 executive management or control by a person or persons who

1 are not of good moral character or who do not meet
2 reasonable, preexisting and, with consideration given to the
3 volume of sales and service of the dealership, uniformly
4 applied minimum business experience standards: Provided,
5 however, That where the manufacturer rejects a proposed
6 change in executive management control, the manufacturer
7 shall give written notice of his reasons to the dealer within
8 60 days of notice to the manufacturer by the dealer of the
9 proposed change; otherwise the change in the executive
10 management of the new motor vehicle dealer shall be
11 presumptively deemed approved.

12 (7) To offer to sell or lease, or to sell or lease, any
13 new motor vehicle to, or through, any new motor vehicle
14 dealer at a lower actual price therefor than the actual price
15 offered to any other new motor vehicle dealer for the same
16 model vehicle similarly equipped or to utilize any device
17 including, but not limited to, sales promotion plans or
18 programs which result in such lesser actual price: Provided,
19 however, That the provisions of this paragraph shall not
20 apply to sales to a new motor vehicle dealer for resale to
21 any unit of the United States Government, the Commonwealth or
22 any of its political subdivisions.

23 (8) To offer to sell or lease, or to sell or lease, any
24 new motor vehicle to any person, except a manufacturer's
25 employee at a lower actual price therefor than the actual
26 price offered and charged to a new motor vehicle dealer for
27 the same model vehicle similarly equipped or to utilize any
28 device which results in such lesser actual price: Provided,
29 however, That the provisions of this paragraph shall not
30 apply to sales to a new motor vehicle dealer for resale to

1 any unit of the United States Government, the Commonwealth or
2 any of its political subdivisions.

3 (9) In connection with a sale of a new motor vehicle or
4 vehicles to the United States, the Commonwealth or any
5 political subdivision thereof, to offer any discounts,
6 refunds or any other type of inducement to any new motor
7 vehicle dealer without making the same offer or offers
8 available to all other of its new motor vehicle dealers
9 within this Commonwealth.

10 (10) In connection with the sale of any new motor
11 vehicle or new motor vehicles to a purchaser of more than ten
12 new motor vehicles per model year, to offer terms, discounts,
13 refunds or other similar types of inducements to that
14 purchaser without making the same offer or offers available
15 on the same terms to all other purchasers of more than ten
16 new motor vehicles per model year from its new motor vehicle
17 dealers in this Commonwealth. No manufacturer or distributor
18 may impose or enforce any restrictions against these new
19 motor vehicle dealers, their leasing, rental or fleet
20 divisions or subsidiaries that is not imposed or enforced
21 against any other similar purchaser.

22 (11) This section shall not be construed to prevent the
23 offering of incentive programs or other discounts if such
24 discounts are equally available to all franchised motor
25 vehicle dealers in this State on a proportionately equal
26 basis.

27 Section 14. Grounds for disciplinary proceedings.

28 The board shall have the power to suspend or revoke any
29 license or refuse to issue or renew any license or otherwise
30 discipline an applicant or licensee or a person required to be

1 licensed under this act, if after due notice and hearing, the
2 person charged is found in violation of or fails to carry out
3 the acts and procedures set forth in sections 4, 10, 11 and 12
4 or is found guilty of committing or attempting to commit any of
5 the acts set forth in section 13 or any of the following acts:

6 (1) Having had his license revoked or suspended by
7 another state based on grounds similar to those which in this
8 Commonwealth allow disciplinary proceedings, in which case
9 the record of such revocation or suspension shall be
10 conclusive evidence.

11 (2) Having had his license previously revoked in this
12 Commonwealth.

13 (3) Knowingly making any substantial misrepresentation
14 of material facts.

15 (4) Knowingly making any false promise of a character
16 likely to influence, persuade or induce the sale of a motor
17 vehicle.

18 (5) Being a motor vehicle dealer or salesman, having
19 within three years prior to the application for or issuance
20 of a license or while his current license is in force pleaded
21 guilty, entered a plea of nolo contendere or been found
22 guilty in a court of competent jurisdiction of this or any
23 other state of forgery, embezzlement, obtaining money under
24 false pretenses, extortion, conspiracy to defraud, bribery or
25 any other crime involving moral turpitude.

26 (6) Having knowingly failed or refused to account for or
27 to pay over moneys or other valuables belonging to others
28 which have come into his possession arising out of the sale
29 of motor vehicles.

30 (7) Having engaged in false, deceptive or misleading

1 advertising of motor vehicles.

2 (8) Having committed any act or engaged in conduct in
3 connection with the sale of motor vehicles which clearly
4 demonstrates incompetency.

5 (9) Having made a material misstatement in application
6 for license.

7 (10) Having set up, promoted or aided in the promotion
8 of a plan by which motor vehicles are sold to a person for a
9 consideration and upon the further consideration that the
10 purchaser agrees to secure one or more persons to participate
11 in the plan by respectively making a similar purchase and in
12 turn agreeing to secure one or more persons likewise to join
13 in said plan, each purchaser being given the right to secure
14 money, credits, goods or something of value, depending upon
15 the number of persons joining in the plan.

16 (11) Having engaged in the buying, selling, exchanging,
17 trading or otherwise dealing in vehicles on Sunday in
18 violation of 18 Pa.C.S. § 7365 (relating to trading in motor
19 vehicles and trailers).

20 (12) Being a dealer, who advertises or otherwise holds
21 out to the public that he is selling new motor vehicles, for
22 which he does not hold a contract in writing with a
23 manufacturer, importer or distributor giving said dealer
24 authority to sell such motor vehicles.

25 (13) Being a dealer who sells new motor vehicles for
26 which he does not hold a contract in writing with a
27 manufacturer, importer or distributor giving said dealer
28 authority to sell these motor vehicles. For the purpose of
29 paragraph (12), and this paragraph the term "new motor
30 vehicle" shall mean a new motor vehicle which has never been

1 registered or titled in Pennsylvania or any other state on
2 which a tax for education imposed by the act of March 4, 1971
3 (P.L.6, No.2), known as the Tax Reform Code of 1971, has not
4 been paid prior to such sale.

5 (14) Having unlawfully tampered with the odometer of any
6 vehicle.

7 (15) Failing to take immediate remedial action when the
8 dealer knows that someone in his direct employ or someone who
9 renders vehicle related services to the dealer for
10 consideration, has unlawfully tampered with the odometer of a
11 vehicle in his care, custody or control or which has been
12 sold or exchanged by the dealer at wholesale or retail. For
13 the purpose of this paragraph, remedial action shall be
14 defined as at least reporting the incident in writing to the
15 Pennsylvania State Police or the board.

16 (16) Having been found guilty, pleaded guilty or entered
17 a nolo contendere to any offense, Federal, Pennsylvania or
18 that of any other state, which relates to odometer tampering,
19 in which case the record of such plea or conviction shall be
20 conclusive evidence.

21 (17) For any licensed dealer to engage in the business
22 for which such dealer is licensed without at all times
23 maintaining an established place of business as required by
24 this act and regulations adopted hereunder.

25 (18) For any licensed dealer to employ any person as a
26 salesman who has not been licensed as required by this act
27 and regulations adopted hereunder.

28 (19) Having had his vehicle business registration plates
29 (dealer identification number) suspended by the Department of
30 Transportation pursuant to 75 Pa.C.S. § 1374(a) (relating to

1 suspension of vehicle business registration plates). A
2 certified copy of the decision and order of the Department of
3 Transportation will constitute conclusive evidence.

4 (20) Being a new car dealer whose franchise, contract or
5 agreement with a manufacturer, which gives the subject dealer
6 selling rights for that line-make, has been finally
7 terminated.

8 (21) Willfully fails to display a license.

9 (22) Fails to obey any lawful and proper order of the
10 board.

11 (23) Permits or allows another individual or
12 organization not licensed by the board to use his license for
13 the purpose of operating in this Commonwealth in a capacity
14 for which the individual or organization should have held a
15 license.

16 (24) Willfully has made any false statement as to a
17 material matter in any oath or affidavit which is required by
18 this act.

19 (25) Fails to collect a tax or fee due the Commonwealth
20 upon a sale of a vehicle as defined in 75 Pa.C.S. § 102
21 (relating to definitions).

22 (26) Collects a tax or fee and fails to issue a true
23 copy of the tax report to the purchaser as required by law.

24 (27) Issues a false or fraudulent tax report or copy
25 thereof.

26 (28) Fails to pay over taxes or fees collected by him to
27 the Commonwealth at the time and in the manner required by
28 law.

29 Section 15. Hearing on suspension and revocations of licenses
30 and registrations.

1 (a) Hearing and appeal.--All actions of the board pursuant
2 to this act which result in a refusal to issue a license or
3 disciplinary action against a license shall be subject to the
4 right of notice of hearing and adjudication and the right of
5 appeal therefrom in accordance with Title 2 of the Pennsylvania
6 Consolidated Statutes (relating to administrative law and
7 procedure).

8 (b) Written notice of hearing to be given.--At least ten
9 days written notice of the time and place of such hearing shall
10 be given the licensee or registrant by registered mail addressed
11 to the post office address as shown on the biennial registration
12 or other record or information in possession of the board.

13 (c) Power of board in hearings.--The board shall have the
14 power in hearings arising under this act as follows:

15 (1) To determine the place in this Commonwealth where
16 the hearings shall be held.

17 (2) To subpoena witnesses and documents.

18 (3) To take depositions of witnesses residing both
19 within and without this Commonwealth in the manner provided
20 for in civil actions in courts of record.

21 (4) To administer oaths.

22 (d) Hearings to be held by board or a member thereof.--
23 Hearings may be held by the board or any member thereof duly
24 chosen by the board for that purpose, or any other person duly
25 authorized by the board for that purpose, including hearing
26 examiners employed and retained by the Department of State
27 pursuant to the terms and provisions of Title 2. Whenever a
28 hearing shall be held for the board by an examiner, he shall
29 report his findings in writing by and through a proposed
30 adjudication to the board which shall thereafter make its

1 findings of fact, conclusions of law and orders.

2 (e) Certain evidence admissible.--In all proceedings before
3 the board and as well in all proceedings upon appeal from any of
4 its decisions, the record or a duly certified or exemplified
5 copy in any proceedings at law or in equity in any court of
6 competent jurisdiction in this or any other state in which the
7 applicant or licensee charged or under investigation shall have
8 been a party, shall be admissible where the issues of fact
9 involved in the proceedings are pertinent to the inquiry before
10 the board and the verdict of the jury or judgment of the court
11 in any action at law or decree of the court in any proceeding in
12 equity shall be prima facie as to the facts at issue in the
13 proceeding and necessarily adjudicated therein.

14 (f) Verdict of jury to be conclusive.--The verdict of the
15 jury in any criminal prosecution in a court of record of this or
16 any other state in which the applicant or licensee charged shall
17 have been the defendant shall be conclusive as to the facts
18 charged and at issue in such prosecution.

19 Section 16. Disciplinary action authorized; revocation;
20 suspension; denial of license; probation, etc.

21 The board shall have authority to enter an order to
22 discipline any person who, after proper hearing, has been found
23 guilty by the board of a violation of one or more provisions of
24 this act or any rule or regulation of the board. The board,
25 based upon the evidence and its findings of fact, may enter its
26 final order which may include the following provisions:

27 (1) Suspension of the respondent's license for a period
28 not to exceed two years. Upon expiration of the suspension,
29 the respondent's license will be returned to him (subject to
30 the appropriate renewal fee, if applicable) without further

1 administrative action by the board.

2 (2) Revocation of the respondent's license.

3 (3) A formal written reprimand.

4 (4) Refusal to issue or renew a license.

5 (5) Impose disciplinary judgment, but suspend
6 enforcement thereof, and place the licensee or applicant on
7 probation, the terms of which will be set forth in the
8 board's order.

9 (6) Any other action in relation to disciplining a
10 licensee as the board in its discretion may deem proper.

11 Section 17. Administrative liability of employer,
12 copartnership, association or corporation.

13 In the event of the revocation of the license issued to any
14 member of a copartnership or to any officer of an association or
15 corporation, the license issued to a copartnership, association
16 or corporation shall be revoked by the board unless, within a
17 time fixed by the board, in the case of a copartnership, the
18 connection of the member whose license has been revoked shall be
19 severed and his interest in the copartnership and his share in
20 its activities brought to an end, or in the case of an
21 association or corporation, the offending officer shall be
22 discharged and shall have no further participation in its
23 activities.

24 Section 18. Procedure after order.

25 Immediately upon the entry of the final order by the board, a
26 copy thereof shall be delivered to the respondent and his
27 counsel, if any, either personally or by registered or certified
28 mail.

29 Section 19. Reissuance of revoked license.

30 (a) License may be reissued.--The board by majority vote at

1 any time after revocation or suspension of a license, for good
2 and sufficient cause, may reissue a license to the person
3 affected conferring upon him all the rights and privileges
4 associated with that license.

5 (b) Fee for reissuance.--Any person to whom such license may
6 be reissued shall pay therefor the same fee as upon the issuance
7 of the original license.

8 Section 20. Application for license.

9 (a) Contents of application; dealer's license.--Application
10 for license as a dealer shall be made in writing to the board,
11 signed by the applicant, setting forth the following:

12 (1) Name of applicant and location of principal place of
13 business.

14 (2) Name or style under which business is to be
15 conducted and, if a corporation, the state of incorporation.

16 (3) Name and address of each owner or partner and, if a
17 corporation, the names of principal officers and directors.

18 (4) The locations in which the business is to be
19 conducted if the dealer has more than one place of business.

20 (5) If new vehicles are to be sold, the make or makes to
21 be handled.

22 (6) A statement of the previous history, record and
23 association of the applicant and of each owner, partner,
24 officer and director, which statement shall be sufficient to
25 establish to the satisfaction of the board the reputation in
26 business of the applicant.

27 (7) A statement showing whether the applicant has
28 previously applied for a license and the result of such
29 application and whether the applicant has ever been the
30 holder of either a dealer's or salesman's license which was

1 revoked or suspended.

2 (8) If the applicant is a corporation or copartnership,
3 a statement showing whether any of the partners, employees,
4 officers or directors have been refused a dealer's or
5 salesman's license or have been the holder of such license
6 which was revoked or suspended.

7 (9) A statement by applicant that he has met all
8 facility requirements as noted herein and as required by
9 regulation.

10 (b) Contents of application; salesman's license.--
11 Application for license as a salesman shall be made in writing
12 to the board, signed by the applicant, setting forth the
13 following:

14 (1) The applicant's name and address.

15 (2) The period of time, if any, during which he has been
16 engaged in the occupation of salesman.

17 (3) The name and address of his last employer.

18 (4) The name and address of the dealer then employing
19 him or into whose employ he is about to enter.

20 (5) The recommendation of his employer or prospective
21 employer certifying that the applicant is honest,
22 trustworthy, truthful and of good repute and recommending
23 that a license be granted. In the case of an applicant who is
24 himself a dealer, an officer of a corporation which is a
25 dealer or a member of a partnership which is a dealer, the
26 foregoing recommendation shall be made by another dealer,
27 bank or sales finance company which has personal knowledge
28 concerning the reputation and fitness of the applicant.

29 (6) A statement showing whether the applicant has
30 previously applied for a license and the result of such

1 application and whether the applicant has ever been the
2 holder of a salesman's license which was revoked or suspended
3 or the subject of disciplinary action by this board or that
4 of any other jurisdiction.

5 (7) The application shall be made upon a form prepared
6 by the board containing such other information as the board
7 shall require through regulation.

8 (c) Application for license other than as a dealer or
9 salesman.--Application for license other than as a dealer or
10 salesman shall be made in writing to the board accompanied by
11 the required fee. The board may require, in such application or
12 otherwise, information relating to the applicant's solvency, his
13 financial standing or other pertinent matter commensurate with
14 the safeguarding of the public interest, all of which may be
15 considered by the board in determining the fitness of said
16 applicant to engage in the business for which he desires to be
17 licensed.

18 Section 21. Refusal of license.

19 The board may refuse to issue a license if the applicant has
20 committed any of the acts set forth in this act as grounds for
21 the suspension or revocation of a license. The board may also
22 refuse to issue a license when it determines;

23 (1) That the applicant was previously the holder of a
24 license issued under this act which license was revoked for
25 cause and never reissued by the board or which license was
26 suspended for cause and the terms of the suspension have not
27 been fulfilled.

28 (2) That the applicant was previously a limited or
29 general partner, stockholder, director or officer of a
30 partnership or corporation whose license issued under the

1 authority of this act was revoked for cause and never
2 reissued or was suspended for cause and the terms of
3 suspension have not been fulfilled.

4 (3) If the applicant is a partnership or corporation,
5 that one or more of the limited or general partners,
6 stockholders, directors or officers was previously the holder
7 of a limited or general partner, stockholder, director or
8 officer of a partnership or corporation whose license issued
9 under the authority of this act was revoked for cause and
10 never reissued or was suspended for cause and the terms of
11 the suspension have not been fulfilled, or that by reason of
12 the facts and circumstances touching the organization,
13 control and management of the partnership or corporation
14 business, the policy of such business will be directed,
15 controlled or managed by individuals who, by reason of their
16 conviction of violations of the provisions of this act, would
17 be ineligible for a license and that by licensing such
18 corporation or partnership, the purposes of this act would
19 likely be defeated.

20 Section 22. Change of salesman's license to indicate new
21 employer.

22 If a person holding a currently valid salesman's license
23 desires to be licensed as a salesman of another employer, he
24 shall make application to the board for the issuance of a new
25 license showing the name of his proposed new employer. Such
26 application shall be made on a form of application prescribed by
27 the board and shall include the recommendation of his proposed
28 new employer similar to the requirement of section 20. The new
29 license shall be issued for the remainder of the period covered
30 by his previous license. The fee for the issuance of such

1 changed license shall be \$5.

2 Section 23. Termination of employment or business.

3 (a) Salesman's license to be surrendered after termination
4 of employment.--Within ten days after termination of a
5 salesman's employment, the dealer shall surrender that
6 salesman's licenses to the board. If the subject licenses are
7 not in the dealer's possession, then it will be the
8 responsibility of the salesman to return the said licenses.

9 (b) Dealer's license to be surrendered after termination of
10 business.--Within ten days after termination of business
11 activities, the dealer shall surrender to the board its vehicle
12 dealer's license.

13 Section 24. Exemption from licensure and registration.

14 This act shall not be construed to require licensure and
15 registration in the following cases:

16 (1) Public officers in the conduct of sales of vehicles
17 in the performance of their official duties.

18 (2) Sales finance companies and banks licensed under the
19 provisions of the act of June 28, 1947 (P.L.1110, No.476),
20 known as the Motor Vehicle Sales Finance Act, in the conduct
21 of sales of vehicles which have been repossessed by them.

22 Section 25. Penalties.

23 (a) Unlicensed salesmen and brokers.--Whoever engages in the
24 occupation of vehicle salesman or who sells or acts as salesman
25 or sales agent or broker in connection with the sale of a
26 vehicle or of a mobile home in a mobile home park, without being
27 licensed and registered as required by this act or exempted from
28 licensure as provided in this act, or shall present or attempt
29 to use as his own the license of another or shall give any false
30 or forged evidence of any kind to the board or to any member

1 thereof in order to obtain a license, or shall otherwise violate
2 the provisions of this act shall be guilty of a summary offense
3 and upon conviction thereof shall be sentenced to pay a fine of
4 \$500, or any higher amount equal to double the pecuniary gain
5 derived from the offense. For the purpose of this act the sale
6 of each vehicle in violation of this act will constitute a
7 separate offense.

8 (b) Unlicensed manufacturers, etc.--Whoever engages in the
9 business of vehicle dealer, manufacturer, factory branch,
10 distributor, distributor branch, factory or distributor
11 representative or wholesaler without being licensed and
12 registered as required by this act or exempted from licensure as
13 provided in this act, or shall present or attempt to use as his
14 own the license of another or shall give any false or forged
15 evidence of any kind to the board or to any member thereof in
16 order to obtain a license or shall use any expired, suspended or
17 revoked license, or shall otherwise violate the provisions of
18 this act, shall be guilty of a summary offense and upon
19 conviction thereof shall be sentenced to pay a fine of \$500 or
20 any higher amount equal to double the pecuniary gain derived
21 from the offense. For the purpose of this act the sale of each
22 vehicle in violation of this act will constitute a separate
23 offense.

24 Section 26. Civil actions for violations.

25 (a) Action for damages.--Notwithstanding the terms,
26 provisions or conditions of any agreement or franchise or other
27 terms or provisions of any novation, waiver or other written
28 instrument, any person who is or may be injured by a violation
29 of a provision of this act or any party to a franchise who is so
30 injured in his business or property by a violation of a

1 provision of this act relating to that franchise, or any person
2 so injured because he refuses to accede to a proposal for an
3 arrangement which, if consummated, would be in violation of this
4 act may bring an action for damages and equitable relief,
5 including injunctive relief in any court of competent
6 jurisdiction.

7 (b) Punitive damages.--If the manufacturer engages in
8 continued multiple violations of a provision or provisions of
9 this act, the court may award punitive damages in addition to
10 any other damages under this act.

11 (c) Equitable relief.--A new motor vehicle dealer, if he has
12 not suffered any loss of money or property, may obtain final
13 equitable relief if it can be shown that the violation of a
14 provision of this act by a manufacturer may have the effect of
15 causing such loss of money or property.

16 (d) Attorney's fees may be awarded.--In an act or under this
17 act, the prevailing party may be awarded a reasonable attorney's
18 fee and costs.

19 Section 27. Applicability of act.

20 (a) Persons having contacts in Pennsylvania subject to
21 act.--Any person who engages directly or indirectly in
22 purposeful contacts within the Commonwealth in connection with
23 the offering or advertising for sale or has business dealings
24 with respect to a new motor vehicle sale within the Commonwealth
25 shall be subject to the provisions of this act and shall be
26 subject to the jurisdiction of the courts of this Commonwealth.

27 (b) Act controls over written instruments.--The
28 applicability of this act shall not be affected by a choice of
29 law clause in any franchise, agreement, waiver, novation or any
30 other written instrument.

1 Section 28. Fees.

2 The fee for an applicant for licensure shall be:

3 (1) For salesman, \$15 for the initial registration and
4 \$10 for each biennial renewal thereof.

5 (2) For dealers, \$25 for the initial registration and
6 \$15 for each biennial renewal thereof. Each office or branch
7 shall be separately licensed and shall pay the same fees.
8 Each used car lot not immediately adjacent to the licensed
9 premises shall be issued a supplemental license for which a
10 biennial fee of \$10 shall be charged.

11 (3) For manufacturers, distributors or wholesalers, the
12 same as for dealers.

13 (4) For factory representatives or distributor branch
14 representatives, same as for salesmen.

15 (5) Manufacturers, wholesalers and distributors may
16 operate as a dealer without any additional fee or license.

17 Section 29. Disposition of fees and fines.

18 All fees and fines collected under the provisions of this act
19 shall be paid into the Treasury Department for the use of the
20 Commonwealth.

21 Section 30. Saving provision.

22 This act shall not be deemed to repeal, suspend, modify or
23 revoke any of the provisions of Title 75 of the Pennsylvania
24 Consolidated Statutes (relating to vehicles) or of the act of
25 June 28, 1947 (P.L.1110, No.476), known as the Motor Vehicle
26 Sales Finance Act.

27 Section 31. Limitations.

28 (a) Two-year statute of limitation.--Actions arising out of
29 any provision of this act shall be commenced within a two-year
30 period of the accrual of the cause of action: Provided, however,

1 That if a person liable hereunder conceals the cause of action
2 from the knowledge of the person entitled to bring it, the
3 period prior to the discovery of his cause of action by the
4 person entitled shall be excluded in determining the time
5 limited for the commencement of the action.

6 (b) One-year statute of limitation.--If a cause of action
7 accrues during the pendency of any civil, criminal or
8 administrative proceeding against a person brought by the United
9 States, or any of its agencies under the antitrust laws, the
10 Federal Trade Commission Act, or any other Federal act, or the
11 laws or to franchising, such actions may be commenced within one
12 year after the final disposition of such civil criminal or
13 administrative proceeding.

14 Section 32. Repeal.

15 The act of September 9, 1965 (P.L.499, No.254), known as the
16 Motor Vehicle Manufacturer's, Dealer's and Salesmen's License
17 Act, is repealed.

18 Section 33. Effective date.

19 This act shall take effect immediately.